

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

MARK HAMILTON,

Petitioner,

vs.

UNNAMED RESPONDENTS,

Respondents.

CASE NO. 14CV802 BEN (DHB)

ORDER DISMISSING PETITION

On April 2, 2014, Petitioner Mark Hamilton filed a petition seeking the Court's intervention in his ongoing criminal proceedings in San Diego Superior Court. (Docket No. 1.) The Court has construed his filing as a writ of habeas corpus pursuant to 28 U.S.C. § 2241. It appears from the Petition that Petitioner disputes the charges that have been filed against him and takes issue with the state court judge entering a not guilty plea for him when he refused to enter a plea, believing the state court did not have jurisdiction because he was arrested at a border crossing.

The Court has reviewed the Petition and finds it must be dismissed. Under *Younger v. Harris*, 401 U.S. 37 (1971), federal courts may not interfere with ongoing state criminal proceedings absent extraordinary circumstances. *Id.* at 45-46; *see Middlesex County Ethics Comm. v. Garden State Bar Ass'n*, 457 U.S. 423, 431 (1982) (*Younger* "espouse[d] a strong federal policy against federal-court interference with pending state judicial proceedings.")

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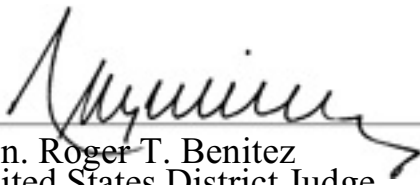
1 Absent extraordinary circumstances, abstention under *Younger* is required when:
2 “(1) state proceedings are ongoing; (2) the state proceedings implicate important state
3 interests; (3) the state proceedings provide the federal litigant an adequate opportunity
4 to raise the federal claims; and (4) the federal proceeding would interfere with the state
5 proceedings in a way that *Younger* disapproves.” *Lazarus v. Baca*, 389 Fed. App’x
6 700, 700 (9th Cir. 2010) (affirming district court’s dismissal of habeas petition
7 challenging excessive bail); *San Jose Silicon Valley Chamber of Commerce Political*
8 *Action Comm. v. City of San Jose*, 546 F.3d 1087, 1092 (9th Cir. 2008).

9 All four of these criteria are satisfied here. At the time Petitioner filed the instant
10 Petition, he had been arraigned on the state charges against him. Thus Petitioner’s
11 criminal case is still ongoing in the state courts. Further, there is no question that the
12 state criminal proceedings involve important state interests. The Court has no reason
13 to think the issues Petitioner raises, a state law defense to the charges against him and
14 the state court’s jurisdiction to hear those charges, will not be adequately addressed in
15 the state proceedings. Finally, although it is not entirely clear what relief Petitioner
16 seeks, any intrusion into the ongoing criminal proceedings would surely interfere with
17 state proceedings in a way *Younger* disapproves. “[O]nly in the most unusual
18 circumstances is a defendant entitled to have federal interposition by way of . . . habeas
19 corpus until after the jury comes in, judgment has been appealed from and the case
20 concluded in the state courts.” *Carden v. State of Mont.*, 626 F.2d 82, 83-84 (9th Cir.
21 1980) (quoting *Drury v. Cox*, 457 F.2d 764, 764-65 (9th Cir. 1972)).

22 The Petition is **DISMISSED without prejudice.**

23 **IT IS SO ORDERED.**

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25 DATED: October 1, 2014

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28 Hon. Roger T. Benitez
United States District Judge